



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

7705 Timberlake Road, Lynchburg, Virginia 24502

(434) 582-5120 Fax (434) 582-5125

www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Thomas L. Henderson
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Chandler Concrete of Virginia, REGISTRATION NUMBER 30445

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §1300 *et seq.* and 10.1-1185 between the State Air Pollution Control Board and Chandler Concrete for the purpose of resolving certain violations of Conditions Part I Condition 4 and Part I Condition 6 of Chandler Concrete's permit with an effective date of July 23, 1987.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.

6. "Chandler Concrete of Virginia or Chandler Concrete" means Chandler Concrete of Virginia certified to do business in Virginia and its affiliates, partners, subsidiaries and parents.
7. "Facility" or "Source" means Chandler Concrete, located in Campbell County, Virginia.
8. "SCRO" means the South Central Regional Office located in Lynchburg, Virginia.
9. "SEP" means Supplemental Environmental Project.
10. "Regulations" means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. Part I Condition 4 of Chandler Concrete's permit with an effective date of July 23, 1987, states:

The yearly production of concrete shall not exceed
26,400 tons. (15,000 cubic yards).
(Section 120-02-11 of State Regulations)
2. In the 2006 Annual Update, the source reported a production of 32,964 tons.
3. Part I Condition 6 of Chandler Concrete's permit with an effective date of July 23, 1987, states:

Emissions from loading the concrete batch trucks
shall not exceed the limitations specified below:
Particulate Matter 4.2 lbs/hr 0.63 tons/yr
(Section 120-05-0403 of State Regulations)
4. The emissions inventory shows the source emitted 0.66 tons/yr in 2006.
5. A Notice of Violation was issued to Chandler Concrete on April 30, 2007.
6. A meeting was held between Chandler Concrete and the Department of

Environmental Quality, South Central Regional Office on May 15, 2007.

7. Chandler Concrete submitted a Supplemental Environmental Project (SEP) on June 15, 2007.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307 (D), 10.1-1309, 10.1-1184, and 10.1-1316 (C), orders Chandler Concrete of Virginia, and Chandler Concrete of Virginia, agrees that:

1. Chandler Concrete shall pay a civil charge of \$4,613.00 for the violations described in Section C of this order. Chandler Concrete may satisfy its obligations to pay in part by performing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.
2. Chandler Concrete shall make a payment of \$1,154 of this civil charge within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

3. Chandler Concrete shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order.
4. Chandler Concrete shall implement the SEP as identified in Appendix A of this Order. The cost to Chandler Concrete for the SEP shall be a minimum of \$3,459.00. Upon completion of the SEP, pursuant to Virginia Code §10.1-1186.2 and as described in Appendix A, Chandler Concrete shall within 30 days, but no later than August 15, 2007, provide a completion report including actual SEP costs to the Department.
5. In the event that the SEP is not performed as described in Appendix A, upon the Department's determination of non-performance and within 30 days of notification by the Department, the civil charge is due in full. Chandler

Concrete shall pay the amount of the SEP specified in paragraph 4 of this Section.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this agreement with the consent of Chandler Concrete for good cause shown by Chandler Concrete or on its own motion after notice and an opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Chandler by DEQ on April 13, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Chandler Concrete admits the jurisdictional allegations, factual findings and conclusions of law contained herein.
4. Chandler Concrete consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this order.
5. Chandler Concrete declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2 4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Chandler Concrete to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of

additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Chandler Concrete shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Chandler Concrete shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Chandler Concrete shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Chandler Concrete. Notwithstanding the foregoing, Chandler Concrete agrees to be bound by any compliance date which precedes the effective date of the Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Chandler Concrete. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Chandler Concrete from its obligation to comply

with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Chandler Concrete voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of July 23, 2007.


Thomas L. Henderson, Director
Department of Environmental Quality

Chandler Concrete of Virginia voluntarily agrees to the issuance of this Order.

By: Dan R. Canada

Date: 7/20/07


Commonwealth of Virginia City/County of Montgomery

The foregoing instrument was acknowledged before me this 20th day of

July, 2007, by DAN R. CANADA,
(name)

who is Operations Manager, Virginia of Chandler Concrete,
(title)

on behalf of the Corporation.


Notary Public

My commission expires 12/31/07

Certification
331421



CO - ASCRO5951
July 10, 2007

Appendix A

Supplemental Environmental Project

SUPPLEMENTAL ENVIRONMENTAL PROJECT

SECTION I: DESCRIPTION OF THE PROJECT

1. Chandler Concrete Co. shall complete the following supplemental environmental project ("SEP"), which the parties agree is intended to secure environmental protection and improvements:

Chandler Concrete Co. proposes to perform the following SEP: Install a CO2 water treatment system to control the pH in the final washout pond in the South Boston plant.

2. Chandler Concrete Co. shall complete the SEP as follows:

- Purchase a CO2 water treatment system;
- Install water treatment system; and
- Train employees on operation of system.

The SEP will be completed and the final completion report will be submitted to the Department as stated in the Consent Order.

SECTION II: PROJECT COST

Chandler Concrete Co. shall perform this SEP in partial settlement of the enforcement action initiated against Chandler Concrete Co. for violations listed in the Notice of Violation issued on April 30, 2007. Chandler Concrete Co. shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report. In the event that the SEP is not performed as described in this Appendix, upon notification by the Department, Chandler Concrete Co. shall pay the \$3,459.00 to the Department within 30 days of such notification according to the procedures specified in Section D of the Order.

SECTION III: REPORTS AND DOCUMENTATION

A. SEP Completion Report

Chandler Concrete Co. shall submit a SEP Completion Report to the Department within 30 days of the completion of the SEP. The SEP Completion Report shall contain the following information:

1. A detailed description of the SEP as implemented;
 2. A description of any operating problems encountered and the solutions thereto;
 3. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
 4. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and,
 5. A description of the environmental and public health benefits resulting from implementation of the SEP.
- B. Chandler Concrete Co. shall submit all notices and reports required by this Consent Order to Craig Nicol, Air Compliance Manager, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502 by first class mail.

- C. Chandler Concrete Co. shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to the Department pursuant to this Consent Order, and shall provide the documentation of any such underlying research and data to the Department within seven days of a request for such information.
- D. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Chandler Concrete Co., shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

SECTION IV: DISPOSITION OF REPORT

- A. Following receipt of the SEP Completion Report described in Section III (A) above, the Department will do one of the following: (1) accept the SEP Completion Report or; (2) reject the SEP Completion Report, notify Chandler Concrete Co. in writing, of deficiencies in the SEP Completion Report and grant an additional (10) days in which to correct any deficiencies.
- B. If the Department elects to exercise option (2) above, it shall permit Chandler Concrete Co. the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this section within (10) days of receipt of such notification. The Department and Chandler Concrete Co. shall have a total of thirty (30) days from the receipt from the Department of the notification of objection to reach agreement on issues in contention. If agreement cannot be reached on any such issues within this thirty (30) day period, the Department shall provide a written statement of its final decision regarding such issues which decision shall be binding upon Chandler Concrete Co. Chandler Concrete Co. agrees to comply with any requirements imposed by the Department as a result of any such deficiency or failure to comply with the terms of the Consent Order.

SECTION V: FAILURE TO PERFORM

- A. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of the DEQ.
- B. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting, the ability of the Department to seek any other remedies or sanctions available by virtue of Chandler Concrete Co. violation of this Order or of the statutes and regulations upon which this Order is based, or for Chandler Concrete Co. violation of any applicable provision of law.

SECTION VI: MISCELLANEOUS PROVISIONS

- A. Chandler Concrete Co. agrees that DEQ may inspect the Facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.
- B. Any public statement, oral or written, in print, film, or other media, made by Chandler Concrete Co. making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the Department of Environmental Quality for violations of *40 CFR Part 63.5805* of the Code of Federal Regulations.
- C. This Order shall not be construed to constitute the Department's approval of the equipment or technology installed by Chandler Concrete Co. in connection with the SEP under the terms of this Order.
- D. Chandler Concrete Co. agrees not to deduct any of the expenses of the SEP from its income for tax purposes.

**SUPPLEMENTAL ENVIRONMENTAL PROJECT
ANALYSIS ADDENDUM
VA CODE §10.1-1186.2.A**

Case Name: *Chandler Concrete Co.*

Project Description: *Chandler Concrete Co.* proposes to conduct a SEP. The project is the installation of a CO2 water treatment system to control the pH in the final washout pond.

Initial Penalty Computation, Cost of SEP and Final Penalty:

Initial penalty	=	<i>\$4,613</i>
Estimated cost of SEP	=	<i>\$6,550</i>
SEP Credit	=	<i>\$3,459</i>
Final Penalty	=	<i>\$1,154</i>

SEP Not Otherwise Required by Law: Neither DEQ nor any local ordinance requires this proposed project.

Geographic Nexus: The SEP is being undertaken at a different facility. However, the facility is located in the South Central Region.

Qualifying Categories: This project falls under the categories of pollution prevention.

Factors:

1. Net project cost: *Chandler Concrete Co.*, will incur at least \$3,459 in expenses to carry out this SEP. None of these expenses will be tax deductible.
2. Benefits to the Public and the Environment: By installing the water treatment system the facility will be able to recycle water and it could insure the correct pH for discharge of storm water.
3. Multimedia Impact: Installing the water treatment system will potentially insure correct pH during a storm water discharge and prevent harm to waterways.